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 PERFORMANCE CONTRACTORS, INC.

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA—SAN FRANCISCO DIVISION

UNITED STATES OF AMERICA for the Use and  
 Benefit of WEBCOR CONSTRUCTION, INC. dba  
 WEBCOR BUILDERS, and WEBCOR  
 CONSTRUCTION, INC. dba WEBCOR  
 BUILDERS,

Plaintiffs,

vs.

DICK/MORGANTI, a joint venture, DICK  
 CORPORATION, THE MORGANTI GROUP,  
 AMERICAN CASUALTY COMPANY OF  
 READING, PA, NATIONAL UNION FIRE  
 INSURANCE COMPANY OF PITTSBURGH, PA,  
 , and DOES 1 through 10, inclusive,

Defendants.

AND RELATED COUNTER-CLAIMS AND  
 THIRD PARTY CLAIMS.

Case No.: 3:07-CV-02564-CRB

**STIPULATION AND ~~PROPOSED~~  
 ORDER EXTENDING TIME TO  
 FILE OPPOSITION AND REPLY  
 IN CONNECTION WITH  
 PERFORMANCE CONTRACTING,  
 INC.'S MOTION TO DETERMINE  
 WHICH PORTIONS OF CLAIM  
 ARE PASS THROUGH AND  
 WHICH ARE NOT PASS  
 THROUGH**

Date: January 23, 2009  
 Time: 10:00 a.m.  
 Judge: Hon. Charles R. Breyer  
 Place: Courtroom 8

Pursuant to Civil Rule 6-2, Performance Contracting, Inc. ("PCI"), and Dick/Morganti, a Joint Venture ("Dick/Morganti"), submit this stipulation to extend the time to file opposition and reply papers in connection with a pending motion.

Whereas, PCI filed its Motion to Determine Which Portions of Claim Are Pass Through and Which Are Not Pass Through ("PCI's Pass-Through Motion") on December 18, 2008, making Dick/Morganti's opposition due on January 2, 2009, and PCI's reply due on January 9, 2009;

Whereas, counsel for Dick/Morganti was unavailable December 22, 2008 through December 26, 2008, due to a pre-planned family vacation; and

Whereas Dick/Morganti's opposition will rely on declarations it has not yet been able to obtain on account of the year-end holidays (including the fact that the offices of Dick Corp. are closed from December 24, 2008 to January 5, 2009);

For these reasons, Dick/Morganti and PCI stipulate and agree that the following briefing schedule should be established for PCI's Pass-Through Motion:

- Deadline for Dick/Morganti's Opposition: January 8, 2009.
- Deadline for PCI's Reply: January 15, 2009.
- Hearing: January 23, 2009 (unchanged).

This extension of time will not otherwise affect the schedule for this case.

There have been prior time extensions in this case, including time extensions in connection with case management conferences, but no prior time extensions in connection with PCI's Pass-Through Motion.

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1 A declaration in support of this stipulated request is attached.

2  
3 Dated: December 29, 2008 OTIS CANALI & IRIKI

4 /s/  
5 By: \_\_\_\_\_  
6 Steven L. Iriki  
7 Attorney for PERFORMANCE  
8 CONTRACTING, INC.

9  
10 Dated: December 29, 2008 HOWREY LLP

11 /s/  
12 By \_\_\_\_\_  
13 John W. Ralls  
14 Attorneys for Defendant DICK/MORGANTI

15 **PROPOSED ORDER**

16 PURSUANT TO STIPULATION, IT IS SO ORDERED.

17 Defendant Dick/Morganti's Opposition to PCI's Motion to Determine Which Portions of  
18 Claim Are Pass Through and Which Are Not Pass Through ("PCI's Pass-Through Motion") shall  
19 be due on January 8, 2009;

20 PCI's Reply in support of its Pass-Through Motion shall be due on January 15, 2009.

21 The scheduled hearing for PCI's Pass-Through Motion shall remain January 23, 2009, at  
22 10:00 a.m. in Courtroom 8, in San Francisco.

23 Dated: January 06, 2009, ~~2008~~

